

accordance with the procedures specified in Section XIV of the CD. In the Completion of Element of Work Report, a registered Professional Engineer and the Settling Defendant's Project Coordinator shall state that the Element of Work covered by the report has been completed in full satisfaction of the requirements of the CD. The written report shall include as-built drawings, if applicable, that are signed and stamped by a Professional Engineer registered in the State of Idaho. The Completion of Element of Work Report shall contain the following statement, signed by responsible corporate officials of each Settling Defendant or the Settling Defendants' Project Coordinator:

To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

- 1.4.17 All as-built drawings shall be signed and stamped by a registered Professional Engineer of the State of Idaho.
- 1.4.18 Settling Defendants shall coordinate, as appropriate, each Element of Work with all other Elements of Work.
- 1.4.19 Settling Defendants shall, prior to any shipment by them of Waste Material resulting from the Work to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving facility's state and to EPA of such shipment of Waste Material.

The written notification shall include the following information, where available: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Settling Defendants shall notify the state in which the planned receiving facility is located of major changes in the shipment, such as a decision to ship the Waste Material to another facility within the same state or to a facility in another state.

The identity of the receiving facility and the state will be determined by Settling Defendants. Settling Defendants shall provide the information required, above, as soon as practicable before the Waste Material is actually shipped.

- 1.4.20 Unless otherwise specified in writing by EPA, Settling Defendants shall submit to EPA an electronic copy and three (3) paper copies of all Deliverables and other submissions required by this SOW. Settling Defendants shall simultaneously submit two (2) copies of all such Deliverables and other submissions to the State.
- 1.4.21 Any repairs or disruptions to community or private infrastructure, such as roads and utilities, that result from the implementation by Settling Defendants of the Work under this SOW shall be performed and coordinated with the affected community, private entity, and government agencies in a timely manner with minimal disruption to service.
- 1.4.22 Actions undertaken by Settling Defendants within the Site shall be coordinated with the Basin Property Remediation Program and other response actions in adjacent areas, *if any.*

2.0 DESCRIPTION OF WORK TO BE PERFORMED, PERFORMANCE STANDARDS AND OBJECTIVES

This Section sets forth the Elements and Components of Work to be performed pursuant to the CD and states the Objectives and Performance Standards for each.

2.1 General Standards Applicable to all Elements and Components of Work

- 2.1.1 Settling Defendants shall demonstrate achievement of the Performance Standards set forth in this Section 2.
- 2.1.2 Unless otherwise specified within a specific work plan for a given Element of Work, achievement of the Performance Standards shall be demonstrated at representative locations and using methods that are proposed by Settling Defendants and are subject to the review of EPA and the State and the approval of EPA.
- 2.1.3 All Work performed and proposals made by Settling Defendants are subject to EPA's written approval.
- 2.1.4 All Work performed by Settling Defendants shall be performed in accordance with the deliverables and schedules set forth under Sections 4 and 5, respectively.
- 2.1.5 Unless otherwise specified, Settling Defendants shall dispose of, or arrange and provide for the disposal of, Waste Materials generated from their performance of the Work.
- 2.1.6 Unless otherwise specified in the RA Work Plan or RAD Drawings, Waste Material generated in the performance of the Work by Settling Defendants that requires disposal shall either be disposed of On-Site or Off-Site in accordance with the following requirements:
 - 2.1.6.1 If disposed of Off-Site such disposal shall be in compliance with all applicable laws and regulations including the Off-Site Disposal Rule (40 C.F.R. 300.440); or
 - 2.1.6.2 If disposed of On-Site, such disposal shall occur within a designated disposal area that is located within the Basin or otherwise managed On-Site in accordance with procedures approved by EPA. Disposal within any designated On-Site disposal areas shall be in accordance with material handling and waste acceptance requirements specified by EPA in consultation with the Idaho Department of Environmental Quality (IDEQ) for the respective disposal area.
- 2.1.7 Unless otherwise approved by EPA, Settling Defendants shall implement, install, and/or use the controls specified below during all construction activities.
 - 2.1.7.1 If evidence of potential archeological sites is encountered during construction, including discovery of any bones, shards, implements, or other archeological deposits, then all construction activities within the immediate area of the discovery shall stop and immediate notice shall be provided to the EPA Project Coordinator and the agencies that have applicable authorities under state or federal law.
 - 2.1.7.2 Access to active work areas shall be restricted through the use of appropriate measures (e.g., fencing, barricades, etc.). For purposes of this provision, active work areas shall mean those On-Site areas in which construction associated with the Work is occurring and such construction activities would represent a potential safety hazard to the general public if access were not controlled. Active work areas shall also

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include those On-Site areas where, as a result of the ongoing construction activities, exposure to contaminants is temporarily greater than that which existed prior to the implementation of the construction activities (e.g., stockpiling of contaminated soils or open excavations).

- 2.1.7.3 Controls as outlined in work specific health and safety plans shall be implemented to prevent unacceptable contaminant exposures to workers within those On-Site areas described in 2.1.7.2 and adjacent communities.
- 2.1.7.4 Removals and other excavations conducted as part of the construction activities shall be performed in a manner that allows for proper drainage from the excavated area. Except as required to protect barriers that are installed as part of the Work or to otherwise correct drainage problems that result from the Work, this provision is not intended to create an obligation for Settling Defendants to improve existing drainage patterns. Existing drainage conveyances will be protected and preserved and will not be impeded by the implementation of the Work pursuant to the CD and the SOW.
- 2.1.7.5 Construction activities associated with the Work shall be performed in a manner that minimizes the damage to existing vegetation that is located outside of the following areas where protective barriers or removals are to be performed as part of the implementation of the RA Work Plan; or areas that are to be disturbed as part of approved access and staging areas. Damage to such existing vegetation shall be mitigated as follows:
 - 2.1.7.5.a Areas that contain grass, forbs, and low shrubs shall be seeded with the seed mix specified within the PMPS for the type of habitat encountered (riparian or upland).
 - 2.1.7.5.b In areas where hostile vegetation previously provided access control, hostile vegetation ~~as specified within the PMPS~~ shall be used to mitigate the damage or cover with an appropriate barrier.
 - 2.1.7.5.c Areas, other than Wallace Yard and Hercules Mill Site, where a stand of existing trees in excess of 4 inches in trunk diameter are destroyed shall be mitigated by the installation of small tree plantings as specified in the PMPS on a density that is consistent with the density of the destroyed trees, unless otherwise approved by EPA. This requirement shall not apply to individual trees that may be destroyed incidentally due to damage in the other areas as described in 2.1.7.5.a through b.
- 2.1.7.6 Construction activities shall be conducted in a manner that does not result in the re-contamination of areas of removal or protective barriers. If any areas become re-contaminated, such re-contaminated areas shall be addressed by Settling Defendants in a manner that is subject to the review of EPA and the State and the approval of EPA.
- 2.1.7.7 Construction quality control and quality assurance monitoring shall be conducted in accordance with the provisions of the Project Quality Assurance/Quality Control Plan and be coordinated with EPA's oversight of the Work; however, oversight by EPA shall not in any way relieve the obligation of Settling Defendants to conduct the Work in accordance with the provisions of the CD and Work Plans.

and to prevent run-off of contaminated water and sediment.

- 2.1.7.17.c Any excavated concentrate material that is temporarily stockpiled within a portion of the Site that does not have controlled access shall be removed within 48 hours of excavation.
- 2.1.7.17.d Any concentrates shall be disposed of in accordance with procedures specified within the Response Action Work Plan.
- 2.1.7.18 Prior to the start of field activities as defined in the Project Construction Schedule submitted in accordance with Section 5 Settling Defendants shall:
 - 2.1.7.18.a Post signs at locations specified in the Response Action Work Plan (Attachment B to this SOW) that identifies a point of contact including a telephone number for Settling Defendants' representative to respond to questions by the public pertaining to the Work.
 - 2.1.7.18.b Notify the appropriate representative of incorporated communities and counties along the Site of the start of the Work; for unincorporated communities, notice shall be provided to county commissioners.

2.2 Wallace Yard Element of Work

2.2.1 General Description

The Wallace Yard Element of Work includes the isolation of Mine Waste from certain potential exposure pathways through removals and disposal as well as the placement of protective barriers. The components of this Element of Work are specified in the Response Action Design Drawings (RAD Drawings) (Attachment C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the Response Action Work Plan (RA Work Plan) (Attachment B to this SOW). This Element of Work includes the following:

- Removal of contaminated soil from common use areas in Wallace Yard as specified in the RAD Drawings and RA Work Plan;
- Disposal of the removed material either On-Site (locations approved by EPA) or Off-Site; and
- Placement of vegetated ^{and} gravel ~~and asphalt~~ barriers at specified locations in common use areas within Wallace Yard.

2.2.2 Performance Objectives

The objectives of the Wallace Yard Element of Work and its components are to:

- Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste, as described below in Section 2.2.3;
- Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the Wallace Yard;

- Minimize the damage to non-abandoned structures, amenities, and vegetation;
- Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work; ~~and~~
- Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities; ~~and~~
- Prevent erosion or destabilization of existing slopes and embankments, ~~and~~ during construction.

2.2.3 Performance Standards

The performance standards for the Wallace Yard Element of Work represent the requirements for this Element of Work and its components. The performance standards are organized by each component of this Element of Work.

2.2.3.1 General Requirements: The following performance standards are applicable to all components of this Element of Work:

2.2.3.1.a Disturbance of existing vegetated areas that are to serve as part of a protective barrier (identified in the RAD Drawings) shall require extension of the placed protective barrier into the area of disturbance as part of the Gravel and Vegetated Barriers Component of Work.

2.2.3.2 Removals and Disposal Component of Work: The performance standards for removals are as follows:

2.2.3.2.a In the Wallace Yard Visitor Center Area – west of road and south of I-90:

2.2.3.2.a.(i) Based on previously obtained sampling results, removal of soils with lead concentrations greater than 700 mg/kg to a depth of 1 foot;

2.2.3.2.a.(ii) placement of clean fill to ensure a 12-inch clean barrier in all areas; and

2.2.3.2.a.(iii) placement of a vegetated barrier as specified by the RAD Drawings and RA Work Plan.

2.2.3.2.b In the Wallace Yard Visitor Center Parking Area – east of road and south of I-90, limited removal of soils at the edge of the barrier area to maintain a smooth transition as specified by the RAD Drawings and RA Work Plan.

2.2.3.2.c In Area WY-4 of Wallace Yard, removal and/or capping in the area of sample WY-148 only, as specified by the RAD Drawings and RA Work Plan.

2.2.3.3 Other Removals and Disposal Component of Work: In addition to the removals described above, additional selected removals may be performed in certain localized areas of Wallace Yard:

Drawings (RAD Drawings) (Attachment C to this SOW). A design narrative and supporting details for the RAD Drawings are provided in the Response Action Work Plan (RA Work Plan) (Attachment B to this SOW). This Element of Work includes the following:

- Removal of contaminated soil from common use areas of the Hercules Mill Site as specified in the RAD Drawings and RA Work Plan;
- Sampling within the former foundation area at the Hercules Mill Site;
- Disposal of the removed material either On-Site (locations approved by EPA) or Off-Site;
- Placement of vegetated and gravel barriers at specified locations in common use areas within the Hercules Mill Site;
- Placement of access controls at specified locations at the Hercules Mill Site; and
- Removal and proper disposal of any concentrate accumulations that may be identified during implementation of this Element of Work.

2.3.2 Performance Objectives

The objectives of the Hercules Mill Site Element of Work and its components are to:

- Prevent unacceptable human exposure to Mine Waste and material contaminated with Mine Waste as described below in Section 2.3.3;
- Minimize migration of Mine Waste and material contaminated with Mine Waste on and off of the Hercules Mill Site;
- Minimize the damage to non-abandoned structures, amenities, and vegetation;
- Protect barriers from damage due to unauthorized access;
- Properly dispose of any Waste Materials that may be generated during implementation of this Element of Work;
- Minimize dispersal of contaminants from the Hercules Mill Site and sequence work to avoid cross contamination of clean barriers installed pursuant to this SOW or other response actions;
- Characterize and respond to remaining releases of hazardous substances within the Hercules Mill Site, consistent with this SOW;
- Minimize the disruptions and construction related impacts to local traffic, drainage patterns, roads, utilities, property owners, and communities; and
- Remove and properly dispose of any concentrate accumulations that may be identified during implementation of this Element of Work.

after removal of rail materials. If rail or other track materials are underneath a paved road, they need not be removed.

2.4.3.3.b

Previously Unidentified Hazardous Substance Release Areas: If previously unidentified locations of releases of hazardous substances resulting from prior railroad operations are discovered within the former Ninemile Spur Line railroad right-of-way during implementation of the various components of work, and if such previously unidentified locations of releases of hazardous substances present an unacceptable risk to human health and the environment, such releases shall be addressed in accordance with Section VII of the Consent Decree. Settling Defendants, EPA or the State may propose the following:

- 2.4.3.3.b.(i) Unless otherwise approved by EPA, the location shall be sampled and the samples analyzed in accordance with a sampling and analysis plan that is subject to the review of EPA and the State and approval of EPA.
- 2.4.3.3.b.(ii) Based on the sampling and analytical results and consultation with EPA, Settling Defendants shall make an evaluation as to whether any follow-up action is required for the area. If the evaluation indicates that additional activities, consistent with the Scope of the Response Action as defined within Paragraph 15(b) of the CD, are necessary (i.e. removals, placement of protective barriers, etc.) and if the reopener conditions in Paragraph 86 or 87 of the Consent Decree are satisfied, then a plan for implementation of the response activities shall be developed. The evaluation and plan shall consider the type of material found, concentration in the affected area, available site access, and potential impact on the surrounding communities and the environment.
- 2.4.3.3.b.(iii) The evaluation and proposed plan of action, including all related analytical data results from the sampling shall be provided to EPA no later than thirty (30) calendar days from receipt of sampling results. The response action for the area shall be subject to the review of EPA and the State and approval of EPA.
- 2.4.3.3.b.(iv) If the Settling Defendants, EPA and the State cannot agree upon a response action for addressing such previously unidentified release areas, resolution of the disagreement shall be subject to the dispute resolution provisions of the CD.

3.3 Initiation of Operation Report

The Initiation of Operation Report serves as Settling Defendants' notification of and documentation supporting the commencement of a particular Element of Work, as applicable, under Section 5. The Report should include all relevant analyses, data, and other information used to support Settling Defendants' contention that the particular Element of Work has begun at the time specified by Settling Defendants.

3.4 Completion of an Element of Work Report

The Completion of an Element of Work Report shall be submitted in accordance with the schedule specified in Section 5. The content of the report shall comply with the requirements specified in Section 1.4.16 of this SOW and Section XIV of the CD. This Report should include the following information:

- Overall description of the Report, including purpose and a general description of the portion of the Work covered by the Report and the associated Element of Work. The general description shall include a description of the Work that was undertaken, objectives, period of operation, and Performance Standards.
- Findings and results of the pre-certification inspection, including documentation supporting the conclusion that the Performance Standards, as specified within this SOW, have been attained.
- Certification of construction completion (if applicable) including:
 - A completed punch list from the inspection of the completed construction;
 - A certification (as applicable) by a registered Professional Engineer that construction activities have been completed according to the final design.
 - A Construction As-Built Report (if applicable) that includes the following information:
 - As-built drawings and specifications, signed and stamped by a registered Professional Engineer.
 - QA/QC records (as applicable).
 - Summary of any modifications.
- Cross-references to relevant or specific information contained in other documents, as appropriate.
- A statement, in the form specified by Section 1.4.16 of this SOW and Section XIV of the CD, by a registered professional engineer (if applicable) and/or Settling Defendants' Project Coordinator that the portion of the Work has been completed in full satisfaction of the requirements of the CD.

3.5 Completion of the Obligation Report

If individual Completion of an Element of Work Reports were not submitted for all four Elements of Work and approved by EPA, then after all Elements of the Work have been fully performed, as set forth in Paragraph 53, Section XIV of the CD, a Completion of the Obligation Report shall be submitted. The Report shall include the certification statements required by Section XIV of the CD.

or milestones are specified in Section 5. The CD and this SOW may require the submission of additional documents and additional milestone events, not listed herein.

4.1 General

- Revised Section 5 of SOW showing actual dates for scheduled items that are dependent on entry of the Consent Decree
- Final Project Construction Schedule
- Final Project QA/QC Plan
- Project Health and Safety Plan
- Monthly Progress Reports
- Maintenance and Repair Plan
- ~~• Annual Progress Reports for Basin Property Remediation Program activity on the Spur Lines~~
- Final Second Annual Updated Project Construction Schedule

4.2 Wallace Yard Element of Work

- Commence Start of the Wallace Yard Element of Work
- Initiation of Operation Report for the Wallace Yard Element of Work
- Completion of all components of the Wallace Yard Element of Work other than Maintenance and Repair
- Pre-certification Inspection for the Wallace Yard Element of Work
- Completion of an Element of Work Report for the Wallace Yard Element of Work

4.3 Hercules Mill Site Element of Work

- Final Removal Characterization Sampling and Analysis Plan for Hercules Mill Site
- Commence Start of the Hercules Mill Site Element of Work
- Initiation of Operation Report for the Hercules Mill Site Element of Work
- Completion of all components of the Hercules Mill Site Element of Work other than Maintenance and Repair
- Pre-certification Inspection for the Hercules Mill Site Element of Work
- Completion of an Element of Work Report for the Hercules Mill Site Element of Work

4.4 Ninemile Element of Work

- Commence Start of the Ninemile Element of Work
- Initiation of Operation Report for the Ninemile Element of Work
- Completion of all components of the Ninemile Element of Work other than Maintenance and Repair
- Pre-certification Inspection for the Ninemile Element of Work
- Completion of an Element of Work Report for the Ninemile Element of Work

4.5 Canyon Creek Element of Work

- Commence Start of the Canyon Creek Element of Work
- Initiation of Operation Report for the Canyon Creek Element of Work
- Completion of all components of the Canyon Creek Element of Work other than Maintenance and Repair
- Pre-certification Inspection for the Canyon Creek Element of Work
- Completion of an Element of Work Report for the Canyon Creek Element of Work

4.6 Completion of the Obligation Report

5.0 OVERALL PROJECT SCHEDULE

This section provides schedules required of Settling Defendants for the deliverables and initiation and completion of the Elements of Work set forth in Section 4. This section also specifies schedules for other submissions and milestone events as well as goals for EPA's and the State's review.

5.1 Cooperation

The Settling Defendants, EPA and the State agree to discuss issues and concerns as necessary prior to submission of documents and comments.

5.2 Timely Review

EPA and the State shall make good faith efforts to meet the goals for their review set forth below.

5.3 General Deliverables and Scheduled Items

| Activity | Scheduled Deadlines |
|--|---|
| Revised Section 5 of SOW showing actual dates for scheduled items that depend on entry <i>of the CD</i> | To be submitted within one week after entry of the CD |
| Submit Revised Draft Proposed Project Construction Schedule | To be submitted within one week after entry of CD |
| <ul style="list-style-type: none">• EPA and State Review of the Revised Draft Proposed Project Construction Schedule | To be completed within 3 weeks after receipt by EPA and the State |

| Activity | Scheduled Deadlines |
|--|---|
| • Re-submission (if a notice of disapproval is received) | To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval |
| • Final Project Construction Schedule | To be submitted within 2 weeks of receipt by Settling Defendants of EPA's final approval |
| Submit Draft Second Annual Update of Project Construction Schedule | To be submitted by February 1, 2010 |
| • EPA and State Review of the Draft Second Annual Update of Project Construction Schedule | To be completed within 3 weeks after receipt by EPA and the State |
| • Re-submission (if a notice of disapproval is received) | To be submitted within 2 weeks or such longer time as specified by EPA after receipt by Settling Defendants of a notice of disapproval |
| • Final Second Annual Updated Project Construction Schedule | To be submitted within 2 weeks of receipt by Settling Defendants of EPA's final approval |
| Project QA/QC Plan | |
| • Draft Project QA/QC Plan | To be submitted within 1 week after entry of CD |
| • EPA and State Review of the Draft Project QA/QC Plan | To be completed within 3 weeks after receipt by EPA and the State |
| • Re-submission (if a notice of disapproval is received) | To be submitted within 2 weeks or such longer time as specified by EPA after receipt of a notice of disapproval |
| • Final Project QA/QC Plan | To be submitted within 2 weeks of receipt by Settling Defendants of EPA's final approval |
| Project Health and Safety Plan | To be submitted within 1 week after entry of CD |
| Monthly Progress Reports | To be submitted by the 10 th of the month following the reporting period during the construction season. The reporting period shall be a calendar month beginning with the first full calendar month after entry of the CD |
| Annual Progress Reports for Basin Property Remediation Program activities funded by Settling Defendants | To be submitted by December 31 each year |
| Incident Reports (e.g. Spills, etc.) | As necessary |
| Technical Memoranda | As necessary |

5.4 Wallace Yard Element of Work

| Activity | Scheduled Deadlines |
|--|---|
| Commence Start of the Wallace Yard Element of Work | Within two weeks after entry of the CD, or as otherwise approved in the Project Construction Schedule |

| Activity | Scheduled Deadlines |
|--|--|
| Commence Start of the Ninemile Element of Work | As per the approved Project Construction Schedule |
| Initiation of Operation Report for the Ninemile Element of Work | To be submitted within 2 weeks after the start of the Ninemile Element of Work |
| Completion of all components of the Ninemile Element of Work other than Maintenance and Repair | As per the approved Project Construction Schedule |
| Pre-certification Inspection for the Ninemile Element of Work | To be requested of EPA by Settling Defendants within 45 days after completion of the Ninemile Element of Work other than Maintenance and Repair |
| Completion of an Element of Work Report for the Ninemile Element of Work | To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this Element of Work other than Maintenance and Repair has been fully performed and the Performance Standards attained |

5.7 Canyon Creek Element of Work

| Activity | Scheduled Deadlines |
|--|--|
| Commence Start of the Canyon Creek Element of Work | As per the approved Project Construction Schedule |
| Initiation of Operation Report for the Canyon Creek Element of Work | To be submitted within 2 weeks after the start of the Canyon Creek Element of Work |
| Completion of all components of the Canyon Creek Element of Work other than Maintenance and Repair | As per the approved Project Construction Schedule |
| Pre-certification Inspection for the Canyon Creek Element of Work | To be requested of EPA by Settling Defendants within 45 days after completion of the Canyon Creek Element of Work other than Maintenance and Repair |
| Completion of an Element of Work Report for the Canyon Creek Element of Work | To be submitted within 30 days after the pre-certification inspection provided that, based on the results of the inspection, Settling Defendants continue to believe that this Element of Work other than Maintenance and Repair has been fully performed and the Performance Standards attained |

5.8 Maintenance and Repair Plan

| Activity | Scheduled Deadlines |
|----------------------------------|--|
| Draft M&R Plan | To be submitted no later than 90 days of entry of CD |
| EPA and State review of M&R Plan | To be completed within four weeks after receipt by EPA and the State |